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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/557,822	04/25/2000	Timothy A. Barton	2799CIP	9903

7590 08/08/2005

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EXAMINER

NORMAN, MARC E

ART UNIT	PAPER NUMBER
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3744

DATE MAILED: 08/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/557,822

Applicant(s)

BARTON, TIMOTHY A.

Examiner

Marc E. Norman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-43 is/are pending in the application.
- 4a) Of the above claim(s) 29-33 and 38-43 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22-28 and 34-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 April 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 7 February 2005 have been fully considered but they are not persuasive. Applicant objects to the fact that Examiner stated that the phrase "requiring the user" is vague, but did not give a rejection under 37 U.S.C. 112. The Examiner accepts that he should have used the word "broad" instead of "vague," but maintains the basic argument as proper. It is noted that Examiner went on to provide a reasonable interpretation of the phrase whereby the claim is deemed unpatentable.

Drawings

New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because of the reasons set forth on the attached Notice of Draftsperson's Patent Drawing Review (PTO-948). Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 34-37 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 34-37 present method claims depending from a base apparatus claim. Due to the indefinite nature of these claims, they have not been examined on the merits.

Election/Restrictions

Newly submitted/amended claims 29-33 and 38-43 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

Claims 22-28 are directed either to permitting a user to review status of shipments made by the user in combination with obtaining actual quotes for shipping from a plurality of carriers (claims 22-25) or displaying/accepting/declining accessorial services in combination with obtaining actual quotes for shipping from a plurality of carriers (claims 26-28). Claims 29-33 and 38-43, in contrast, are directed to presenting an internet page to allow a user to create a bill of lading (claims 29-33) or allowing said user to compare costs of shipping between at least two different shippers for a specific shipping order specified by said user at least a point of departure and a destination, and accepting a command from said user to use one of the said shippers to perform said specific shipping order(claims 38-43). The inventions of claims 29-33 and 38-43 are usable separately from the inventions of claims 22-28 such as in a system that does not include permitting a user to review status of shipments made by the user in combination with obtaining actual quotes for shipping from a plurality of carriers or displaying/accepting/declining accessorial services in combination with obtaining actual quotes for shipping from a plurality of

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carriers. Likewise, the inventions of claims 22-28 are usable separately from the inventions of claims 29-33 or 38-43 such as in a system that does not include presenting an internet page to allow a user to create a bill of lading or allowing said user to compare costs of shipping between at least two different shippers for a specific shipping order specified by said user at least a point of departure and a destination and accepting a command from said user to use one of the said shippers to perform said specific shipping order.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 29-33 and 38-43 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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Claims 22-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over the FedEx system as set forth in the previous Office Action, and further in view of the FedEx system in view of Viking Freight (as set forth in the previous Office Action), and further in view of De La Motte et al.

The combination of the FedEx system and Viking Freight teaches all aspects of claims 22-28 (as set forth in the previous Office Action) except the newly added limitation regarding web pages, when viewed on an internet connected computer, permitting a user to obtain actual quotes for shipping from a plurality of carriers. This feature is taught by De La Motte et al. (See for example paragraph [0045] regarding quote module. See also paragraph [0026], line 6 regarding the system being applicable to freight carriers.). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine this feature of De La Motte et al. to the combined system/method of the FedEx system and Viking Freight for the purpose of assisting the user in obtaining the lowest cost bid, particularly since all three references are directed to on-line freight carrier services.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period

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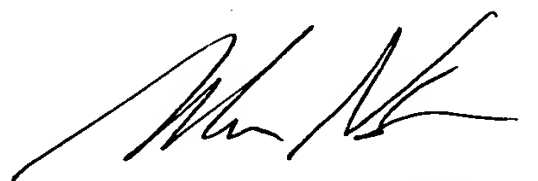
will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc E. Norman whose telephone number is 571-272-4812. The examiner can normally be reached on Mon.-Fri., 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on 571-272-4834. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MN



**MARC NORMAN
PRIMARY EXAMINER**